

REMARKS

Claims 1, 3-6, and 8-9 are currently pending in the application. Claims 2 and 7 have been canceled. Claim 1 has been amended by adding the limitations of now-canceled Claim 2 and by adding the further limitation, "an arithmetic unit verifies a pointer of a completely received final update data set and determines a next pointer in connection with the next data set which should be received next." Support for such amendment may be found in the Specification at **page 12, lines 14-16**. Claim 3 has been amended to correct an informality by deleting a second period at the end of the sentence. Claim 6 has been amended by adding the limitation of now-canceled Claim 7 and by adding the further limitation, "an arithmetic unit for verifying a pointer of a completely received final update data set and determining a next pointer in connection with the next data set which should be received next." Support for such amendment may be found in the Specification at 12, lines 14-16. No new matter has been added.

According to the claimed invention, normal operation system software is present in a distinct storage area 1A within a terminal device, while update data is downloaded to a storage area 1C within the terminal device until the update data is installed. The process of installing updates may thus be deferred until an appropriate time, which avoids problems of incorrect or incomplete downloads which may be associated with factors such as service interruptions.

The claimed invention also provides for the use of pointers to define update data 308, 408 in terms of sequential data sets 308₁, 308₂, 308₃, 408₁, 408₂, 408₃, so that incorrect and incomplete downloads may be remedied by repeating the downloading of individual data sets instead of repeating the downloading of all of the update data.

An arithmetic unit 1D verifies the pointer of the completely received final update data set and decides the next pointer in connection with the next data set which should be received next. This next pointer of the second update data set is set in an updating data transmission request and sends the request to a base station 2. When

the base station 2 receives the request with the next pointer from the mobile terminal 1, the data transmission is restarted from the second update data set with the next pointer.

Claims 1, 4, and 6-9 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,687,901 B1 to Imamatsu in view of European Patent No. 0 802 694 A2 to Heidari. Claims 2-3 and 5 were rejected under 35 U.S.C. § 103(a) as unpatentable over Imamatsu in view of Heidari and in further view of U.S. Patent No. 6,658,247 B1 to Saito. Applicant respectfully traverses.

The Office Action dated January 13, 2005 is essentially a reiteration of the office action dated April 29, 2004, with the addition of the following language describing the Examiner's erroneous finding that Imamatsu suggests updating a program according to the claimed invention:

such that, as taught by Imamatsu in column 3 lines 56-67 and continued in column 4 lines 1-9, where the update-used software, which reads on claimed "update data," and the present control software, which reads on claimed "existent program," may be stored separately within the said terminal device (200)

(Office Action at 2, 4, and 8) The portion of Imamatsu cited by the Examiner in support of rejection is as follows:

In the radio terminal device 200, a CPU 201 stores the update-used software under the control of the present control-software 204 to a buffer memory 206. Subsequently, the CPU 201 updates corresponding parts in the present control-software 204 under the control of update-software 203 with the update-used software stored in the buffer memory 206. Then, the update-software 203 returns the control of the system to the updated control-software.

(Imamatsu, column 3, lines 56-67) Similarly, the Examiner described Figure 2 of Imamatsu as "clearly denot[ing] the use of a Buffer memory (206) and a Main Memory (202), capable of being used to store information separately."

Thus, the Examiner's final rejection turns on the erroneous view that use of buffer memory as taught by Imamatsu is equivalent to the use of a distinct storage area according to the claimed invention. The difference between Imamatsu and the claimed invention in this regard is emphasized by the current amendments to Claims 1 and 6, which are the base claims of the claimed invention.

Imamatsu does not suggest the use of an arithmetic unit to verify a pointer of a completely received final update data set or to determine a next pointer in connection with a next data set to be received next. As a result, the use of buffer memory as taught by Imamatsu does not suggest independent Claims 1 or 6 of the claimed invention.

Conclusion

In view of the foregoing, Applicant submits that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis & Christofferson).

Respectfully submitted,



Michael E. Whitham
Registration No.32,635

Whitham, Curtis & Christofferson, P.C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190
Tel. (703) 787-9400
Fax. (703) 787-7557